

**DEPARTMENT OF STATE REVENUE**

**LETTER OF FINDINGS NUMBER: 01-0248**

**Use Tax  
July 12, 1998**

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**ISSUE(S)**

**I. Use Tax – Case backhoe**

**Authority:** IC 6-2.5-5; 45 IAC 2.2-5-4

Taxpayer protests the assessment of use tax on equipment used on the farm.

**STATEMENT OF FACTS**

Taxpayer waived a hearing scheduled for January 22, 2002 and submitted a letter dated January 14, 2002 to be utilized in lieu of the hearing in addition to a protest letter submitted by the taxpayer's POA.

Taxpayer issued an agricultural exemption certificate to purchase a Super L Model 580 backhoe with two buckets. Taxpayer believes he is exempt from sales or use tax on the equipment because it is used on the farm and not on the public streets. Taxpayer states the backhoe is used to tile ditch, pick up rocks out of fields, and used in the fence rows. Taxpayer states he was told by the Indiana Department of Revenue that this type of equipment is exempt when he purchased one in 1987.

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**DISCUSSION**

Taxpayer's representative and the taxpayer both merely state that the equipment is used on the farm. Taxpayer further states that the backhoe is used in the direct production of crops. A backhoe cannot be used in the tilling of land as stated by the taxpayer's representative. It should be noted that tax exemptions "are strictly construed against the taxpayer" and that the taxpayer bears the burden of demonstrating entitlement to an exemption.

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Taxpayer has not provided proof that he is entitled to an exemption.

**FINDING**

Taxpayer's protest is denied.

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